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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

WOODROW W. WILLIAMS, JR., et ux.,

PETITIONERS,

v.

SHERWIN E. TURK, et ux.,

RESPONDENTS.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

BRIEF OF RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

This appeal arises out of a suit to quiet title filed by the Respondents, Sherwin and Rashel Turk, in the Circuit Court for Montgomery County, Maryland on September 14, 1995. The Complaint was accompanied by a Motion for Summary Judgment. In their Complaint and Motion Respondents alleged that they are the fee simple owners of real property known as 12517 Stable House Court, Potomac, Montgomery County, Maryland (hereinafter referred to as the "Property"); that the Petitioners created a cloud on Respondents' title to that property by filing a document styled "Lis Pendens" among the Land Records of Montgomery County, Maryland; that all litigation between the parties, including the litigation referred to in the "Lis Pendens", had been resolved in Respondents' favor and there was no litigation pending between the

parties; and that the Petitioners had refused to execute a release of the document styled "Lis Pendens". The Respondents sought relief in the form of an Order declaring that the document styled "Lis Pendens" is void and of no effect; that a decree be issued that the Respondents have absolute ownership and right of disposition of the Property; and that the Petitioners be enjoined from asserting any claim against the Property by action-at-law or otherwise.

On October 12, 1995, Petitioners filed a document styled Cross-Complaint to Quiet Title accompanied by a Motion for Summary Judgment. Following the filing of various related motions and answers, judgment was entered in favor of Respondents on all issues, by the Honorable William Turner, Judge, Circuit Court for Montgomery County, Maryland.

Petitioners appealed from the judgment of

the Circuit Court for Montgomery County, Maryland to the Court of Special Appeals of Maryland. Both parties filed briefs. On June 6, 1997, the Court of Special Appeals issued a per curiam opinion affirming the judgment of the Circuit Court (a copy of that opinion is attached as Exhibit "EA" to the Petition for Writ of Certiorari). Thereafter, Petitioners sought review by the Court of Appeals of Maryland by petition for writ of certiorari. Their petition was denied, as was their subsequent motion for reconsideration. On February 6, 1998, Petitioners filed the instant Petition for Writ of Certiorari in this Court.

The facts pertinent to the underlying Quiet Title action from which this appeal was taken are quite straightforward.

Respondents occupy real property at 12517 Stable House Court, Montgomery County,

Maryland as their personal residence. They acquired the property at a foreclosure sale on August 26, 1987, receiving a Substitute Trustees' Deed dated December 7, 1987 which is recorded among the Land Records of Montgomery County, Maryland at Liber 8066, folio 382. The Petitioners were the prior owners of the property and were defendants in the foreclosure proceeding through which Respondents acquired the property.

On October 23, 1987, Petitioners filed an objection to ratification of the foreclosure sale. On November 5, 1987, the Circuit Court for Montgomery County entered an Order ratifying the foreclosure sale. The Petitioners did not appeal the ratification of the foreclosure sale. Following a hearing, on January 19, 1988, the Circuit Court for Montgomery County entered an Order awarding possession of the property to Respondents.

Petitioners did not appeal from this order.

Petitioners filed two subsequent actions in the Circuit Court for Montgomery County challenging the foreclosure. Both of those actions resulted in judgments in favor of the defendants, including Respondents. Those judgments were affirmed by the Maryland Court of Special Appeals and subsequently, in each case, petitions for writs of certiorari were denied by both the Court of Appeals of Maryland and the United States Supreme Court. See Williams v. Kanstoroom, October Term, 1990, Docket No. 90-6982, pet. den. March 18, 1991, reh. den. April 29, 1991 and; Williams v. Kanstoroom, October Term, 1990, Docket No. 90-6983, pet. den. March 25, 1991.

On August 25, 1989, Petitioners filed yet another action, challenging the foreclosure, in the form of an adversary

proceeding in the United States Bankruptcy Court naming, inter alia, Respondents as defendants. On May 30, 1990, after a hearing, the Bankruptcy Court, entered an Order dismissing the Complaint. Petitioners appealed to the United States District Court for the District of Maryland, which affirmed the Bankruptcy Court dismissal in an Order issued July 25, 1991. Petitioners appealed to the United States Court of Appeals for the Fourth Circuit which, on July 30, 1992, affirmed the U.S. District Court's decision, per curiam.

On or about November 27, 1992, Petitioners filed a document styled "Lis Pendens" among the Land Records of Montgomery County, Maryland at Liber 10880, folio 683. That document states:

> Notice is hereby given to anyone interested in real property located at 12517 S.

Stable House Court, Potomac, Maryland 20854, also known as Lot 2, Block E, Potomac Commons.

Said real property is currently involved in court cases pending in Richmond, Virginia with an appeal planned to the United States Supreme Court in the near future,

Clear Title CANNOT be given on said real property.

Petitioners then filed a petition for writ of certiorari in the United States Supreme Court seeking review of the Fourth Circuit decision. Their petition was denied on February 22, 1993 (Williams v. Seeber, October Term, 1992, Docket No. 92-6848). The only litigation between the parties that was pending when Petitioners recorded the document styled "Lis Pendens" was that petition for writ of certoriari, which was denied.

On September 16, 1994, after discovering the "Lis Pendens" among the Land Records,

Respondents' counsel wrote to Petitioners requesting that they execute a release of the document styled "Lis Pendens". By letter dated September 22, 1994, Petitioners refused to execute the release, and the instant action ensued.

ARGUMENT

I. The Petition should be denied for failure to comply with Rule 14.4., Rules of the Supreme Court of the United States.

The Petition for Writ of Certiorari submitted by Petitioners herein is a confusing array of irrelevant statements, conclusions, and arguments. Petitioners have failed to "present with accuracy, brevity, and clarity whatever is essential to a ready and adequate understanding of the points requiring consideration...." Sup. Ct. R. 14.4. For this reason alone the Court should deny the Petition. Id.

II. Petitioners raise no compelling reason for the Court to grant their Petition.

As this Court's rules state, "[r]eview on a writ of certiorari is not a matter of right, but of judicial discretion." Sup. Ct. R. 10. "A petition for writ of certiorari will be granted only for compelling reasons." Id.

Subsections (b) and (c) of Rule 10 contain examples of such "compelling reasons", viz. conflict between the decision of a state court of last resort and that of another state court or United States Court of Appeals, or decision by a state court of an important federal question that should be settled by the Supreme Court.

Petitioners have not demonstrated any important federal question or conflict of decisions that requires the decision of this Court. Rather, at bottom they claim that

the courts below made erroneous factual findings or misapplied rules of law to those facts. A petition for writ of certiorari is "rarely granted" when based on such claims. Id.

III. Petitioners' claims have been rejected previously by this Court.

As noted above, Petitioners have sought review in this Court on three prior occasions of the same issues raised in the instant Petition. Two of those prior petitions followed decisions by the Court of Appeals of Maryland adverse to Petitioners (Williams v. Kanstoroom, October Term, 1990, Docket No. 90-6982 and Williams v. Kanstoroom, October Term, 1990, Docket No. 90-6983). The third petition arose out of an adversary proceeding in the United States Bankruptcy Court that was affirmed by the United States District

Court for the District of Maryland and the United States Court of Appeals for the Fourth Circuit (Williams v. Seeber, October Term, 1992, Docket No. 92-6848). All three previously filed Petitions for Writ of Certiorari were denied by the Court.

The Petitioners' repeated assertions of these claims is appalling. In addressing their conduct, Respondents cannot improve upon the concluding paragraph of the per curiam decision of the Court of Special Appeals in the proceeding below which is attached as Exhibit "EA" to the instant Petition for Writ of Certiorari:

> We register our amazement at the litigious stamina [Petitioners] have exhibited in the decade following the foreclosure proceedings concerning their former residence.... [Petitioners] should not confuse our amazement with laudation. [Petitioners] have again raised substantially the same issues that have been litigated, and rebuffed, thrice. Petitions for certiorari have been denied, judgments have been affirmed, yet [Petitioners]

continue their ill-advised campaign. What we are urging here is "enough." See Marquardt v. Papenfuse, 92 Md. App. 683, cert. denied, 328 Md 93 (1992). [footnote omitted].

CONCLUSION

This matter has been litigated and relitigated in the courts of the State of Maryland and the federal system for the past decade. Every court that could have reviewed this matter has done so, and each has rejected the arguments raised by Petitioners. For all the foregoing reasons, the instant Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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